IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

RCRev..No. 219 of 2007

RCA.171/2006 of RENT CONTROL APPELLATE AUTHORITY, KOZHIKODE
RCP.76/2006 of RENT CONTROL COURT, KOZHIKODE

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APPELLANTS/RESPONDENT:

1. KOLASSERY JAYARAJAN, S/O.MADHAVAN, AGED 53 YEARS, PANNIYANKARA AMSOM DESOM, KOZHIKODE TALUK.

2. KOLASSERY RAJENDRAN, AGED 53 YEARS, S/O.MADHAVAN,PANNIYANKARA AMSOM DESOM, KOZHIKODE TALUK.

BY ADV. SRI.NIRMAL. S

RESPONDENT/RESPONDENT/PETITIONER:

CHAMBAYIL SURESHKUMAR, AGED 48 YEARS, S/O.SADASIVAN, PANNIYANKARA AMSOM OF KOZHIKODE TALUK.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

R.C.R.No. 219 of 2007

ORDER

Balachandran, J.

The tenants in R.C.P.No.76/06 on the file of the Rent Control Court, Kozhikode are the revision petitioners. On the application of the respondent/ landlord eviction of the petitioner from the scheduled building was ordered on grounds under Sections 11(2)(b) and 11(4)(i) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'). Petitioners challenged the order of eviction in R.C.A.No.171/06 before the Rent Control Appellate Authority, Kozhikode. The appellate authority, concurring with the order of eviction passed by the Rent Control Court both under Sections 11(2)(b) and 11 (4)(i) of the Act, dismissed the appeal.

2. Strenuous efforts were made by the learned counsel for the petitioners to have this revision

admitted, but, he was not able to persuade us that grounds exist for us to interfere in revision, as no illegality, impropriety or irregularity was pointed out in the concurrent orders of eviction passed by the authorities below.

3. Finally, it is urged by the counsel for the petitioners that reasonable time be granted to the petitioners to surrender vacant possession of the scheduled building to the respondent/landlord. The request so made deserves to be considered favourably.

In the result, we dismiss this Rent Control Revision. But, at the same time, we grant the petitioners time till 31.12.2007 to surrender vacant possession of the scheduled building to the respondent/landlord on the following conditions:

i. that they shall deposit the entire arrears of rent, if any, in the execution court with a detailed statement as to its correctness within three weeks from today.

ii. that they shall file affidavits before the execution court within one month from today, reporting that all arrears of rent are cleared and unconditionally undertaking that they will surrender vacant possession of the scheduled building to the respondent/landlord positively on or before 31.12.2007 and that they will continue to pay the future monthly rents on the due dates itself till they actually surrender vacant possession of the scheduled building to the respondent/landlord and

iii. that in case the petitioners fail to comply with the above conditions, they shall not be entitled to the benefit of continuing in occupation of the scheduled building till 31.12.2007 and shall be liable to be evicted immediately on the expiry of the aforesaid one month in execution of the order of eviction passed against them.

Registry shall communicate a copy of this order to the respondent/landlord at the expense of the

petitioners, as we are disposing of this revision at the admission stage itself, without issuing notice to the respondent/landlord.

(J.B.Koshy, Judge)

19th July, 2007

(K.P.Balachandran, Judge)

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